IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No.402 of 2006

Decided on : November 23, 2006

Devi Singh **...Appellant.**

VERSUS

Smt. Devku and another **...Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. G.R. Palsara, Advocate.

For the Respondents : Mr. M.S. Guleria, Advocate.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Appellant-plaintiff filed a suit challenging mutation No.169, dated 12.8.1962, whereby his father and father's three brothers purportedly relinquished the tenancy rights, in respect of 5 bighas 13 biswas 7 biswansis land, in favour of landowner, named Ganpatu, the mother of respondent No.1 Devku. The plaintiff alleged that, as a matter of fact, his father had not relinquished his 1/4th share, as tenant, in the said land, but it were his three brothers who had relinquished their 3/4th share.

3. Suit was contested by the defendants. They denied the plea that only the three brothers of the father of the plaintiff had relinquished their shares in the aforesaid land and not the father of the plaintiff. Some preliminary objections were also raised.

4. Trial Court dismissed the suit holding that the father of the plaintiff and his three brothers all had relinquished the tenancy rights in

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Whether the reporters of the local papers may be allowed to see the Judgment?

respect of the suit land. Appeal filed by the appellant-plaintiff stands dismissed by the District Judge.

5. Now, the appellant-plaintiff has filed the present appeal. Learned counsel for the appellant has drawn my attention to the statement made by Devku, during the course of the trial, as DW-1, wherein she stated that Baisakhu, the father of the plaintiff, had not relinquished his share in the land, in question, but only his three brothers had relinquished their shares as co-tenants. No doubt, the statement of respondent-defendant Devku appears to corroborate the claim of the appellant-plaintiff, but the advantage, which the plaintiff got, on account of the making of this statement by defendant Devku, was lost by him when he himself stated in his deposition, as PW-1, that his father and his three brothers relinquished their tenancy rights in favour of Ganpatu, the mother of respondent-defendant Devku. The mutation order, which has been challenged, was passed in the year 1962. In this order the presence of the father of the plaintiff and one of his brothers is marked. As per this order, plaintiff's father and his brother, who were present alongwith him, stated to the Revenue Officer that all the four brothers had relinquished the tenancy rights, in respect of the above described land, in favour of the owner of the land, namely Ganpatu, the mother of respondent-defendant Devku.

6. From the position stated above, I do not think any substantial question of law arises. So, the appeal is dismissed.

November 23, 2006(sd) **(Surjit Singh), J.**